

Federal Defenders
OF NEW YORK, INC.

Southern District
52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

Barry D. Leiwant
*Interim Executive Director
and Attorney-in-Chief*

Southern District of New York
Jennifer L. Brown
Attorney-in-Charge

December 5, 2023

BY ECF

Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

MEMO ENDORSED

**Re: United States v. Haji Najibullah,
(S2) 14 Cr. 401 (KPF)**

Dear Judge Failla,

I write to respectfully request that the Court grant an extension of one week for the defense to file its reply in support of its Rule 12 motions, which were filed on August 25, 2023. The government does not object to this application.

Presently, the defense's reply is due today, December 5, 2023. Since the filing of the government's opposition on Monday, November 13, 2023, the defense has endeavored to reply by today, but has not been able to spend the time necessary in the SCIF to complete its work, which is necessary because the opening motion and opposition are still undergoing classification reviews by the relevant stakeholders. As the Court is aware, there will be a conference on December 14, 2023, to discuss scheduling and other issues relevant to trial, and a suppression hearing date has been set for March 12, 2024. Accordingly, the defense respectfully avers that a one week extension of its time to reply, from December 5 to December 12, 2023, should not interfere with or otherwise disturb the schedule as it currently exists.

This is the third request by the parties to adjust the Rule 12 motions schedule set by the Court on July 24, 2023 (dkt. no. 91). I thank the Court for its consideration of this application.

Respectfully Submitted,



Andrew John Dalack

Mark Gombiner

Samuel Jacobson

Ariel Werner

Assistant Federal Defenders

Tel.: (212) 417-8768

Cc: Government Counsel

Application GRANTED. The deadline for the defense to file the reply is ADJOURNED *nunc pro tunc* to **December 12, 2023**.

The Clerk is directed to terminate the pending motion at docket number 99.

Dated: December 6, 2023
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE